

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

SENATE BILL 326

**49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009**

INTRODUCED BY

Stuart Ingle

AN ACT

RELATING TO WORKERS' COMPENSATION; PROVIDING FOR A SCHEDULE OF  
MAXIMUM ALLOWABLE PAYMENTS FOR HEALTH CARE PROVIDERS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 52-4-5 NMSA 1978 (being Laws 1990 (2nd  
S.S.), Chapter 2, Section 52, as amended) is amended to read:

"52-4-5. [~~FEE~~] MAXIMUM ALLOWABLE PAYMENT SCHEDULE.--

A. The director shall adopt and promulgate  
regulations establishing a schedule of maximum [~~charges~~]  
allowable payments as deemed necessary for treatment or  
attendance, service, devices, apparatus or medicine provided by  
a health care provider. The [~~rates~~] payments listed in the  
schedules of maximum [~~charges~~] allowable payments shall not  
fall below the sixtieth percentile or above the eightieth  
percentile of current [~~rates for~~] charges by New Mexico health

underscoring material = new  
[bracketed material] = delete

underscoring material = new  
[bracketed material] = delete

1 care providers. In determining current [~~rates~~] payments for  
2 health care providers, the director shall utilize [~~a variety of~~  
3 ~~health care provider charges, including the charges of those~~  
4 ~~providers serving low-income, medicare and medicaid patients]~~  
5 New Mexico health care providers workers' compensation related  
6 current procedural terminology codes.

7 B. A health care provider shall be paid [~~his~~] the  
8 provider's usual and customary fee for services rendered or the  
9 maximum [~~charge~~] allowable payment established pursuant to  
10 Subsection A of this section, whichever is less. However, in  
11 no case shall the usual and customary fee exceed the maximum  
12 [~~charge~~] allowable payment unless a contractual agreement is  
13 made with the employer.

14 C. The [~~fee~~] maximum allowable payment schedule  
15 shall be revised annually by the director utilizing New Mexico  
16 health care providers workers' compensation related current  
17 procedural terminology codes.

18 D. No amount in excess of the amount required by  
19 Subsection B of this section for a service shall be paid by the  
20 employer, the employer's insurer, the worker, a representative  
21 of the worker or any other person to a health care provider for  
22 rendering that service in connection with an injury or  
23 disablement within the purview of the Workers' Compensation Act  
24 or the New Mexico Occupational Disease Disablement Law.

25 E. If it is determined by the person primarily

.175271.1

underscoring material = new  
[bracketed material] = delete

1 responsible for payment that the charges of a health care  
2 provider exceed the amount established pursuant to Subsection B  
3 of this section or that a health care provider over-utilized or  
4 otherwise rendered or ordered inappropriate health care or  
5 health care services, and payment is withheld on those grounds,  
6 the health care provider may appeal to the director regarding  
7 that determination. The director shall establish by regulation  
8 procedures for an appeal by a health care provider.

9 F. The director shall establish an advisory  
10 committee that shall:

11 (1) be appointed and serve at the pleasure of  
12 the director;

13 (2) consist of members, a majority of whom  
14 represent health care providers;

15 (3) reflect the diversity of authorized  
16 licensed health care providers available for workers'  
17 compensation and occupational disease disablement cases;

18 (4) assist in establishing the schedules of  
19 maximum ~~[charges under]~~ allowable payments pursuant to  
20 provisions of Subsection A of this section for any fees that  
21 are payable to health care providers;

22 (5) assist the director in adopting  
23 regulations for employers' utilization review procedures and  
24 the establishment and conduct of utilization review boards; and

25 (6) report its findings, upon request, to the

.175271.1

underscored material = new  
[bracketed material] = delete

1 director and the advisory council on workers' compensation and  
2 occupational disease disablement.

3 G. The schedule of maximum [~~charges~~] allowable  
4 payments specified in this section shall not apply to hospital  
5 charges. The director shall establish a separate schedule of  
6 maximum charges for hospital charges no later than April 1,  
7 1991.

8 H. Nothing in this section shall prevent an  
9 employer from contracting with a health care provider for [~~fees~~  
10 ~~less than the maximum charges allowable~~] a negotiated payment  
11 structure."

12 Section 2. EFFECTIVE DATE.--The effective date of the  
13 provisions of this act is July 1, 2009.